

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

S. ADAMS, individually and for all
others similarly situated,

Plaintiff,

- against -

STARWOOD HOTELS & RESORTS
WORLDWIDE, INC. and AMERICAN
EXPRESS COMPANY,

Defendants.

08 07 16 2008
Index No. _____

CLASS ACTION COMPLAINT

RECEIVED
JURY TRIAL DEMANDED

JUL 16 2008

USDC-WP-SDNY

JUDGE ROBINSON

Plaintiff, by his attorneys, Balestriere Lanza PLLC, for his Class Action Complaint, respectfully alleges as follows upon information and belief, except as to allegations concerning Plaintiff or his counsel, which are made upon personal knowledge, and except as otherwise indicated herein:

PRELIMINARY STATEMENT

1. Defendant Starwood Hotels & Resorts Worldwide, Inc. ("Starwood") and American Express Company ("Amex") (collectively "Defendants") have perpetrated ongoing, massive fraud against Plaintiff S. Adams ("Adams" or "Plaintiff") and millions of similarly situated individuals ("Class" or "Class Members").

2. For several years, Starwood, one of the world's largest hotel chains, has lured consumers into participating in its Starwood Preferred Guest customer loyalty program ("SPG Program" or "Program") by misrepresenting the Program's most important features.

3. The SPG Program is similar to well-known frequent flyer programs, but with hotels. Starwood claims that there are no “blackout dates” or “capacity controls” to limit customers’ usage of Rewards Points earned in the Program and, moreover, that Rewards Points can be used toward any available room in one of the Program’s participating hotels.

4. Starwood has advertised these claims extensively in print and online media, making the SPG Program one of the most, if not *the* most, popular rewards programs in the industry. Indeed, because Starwood’s competitors cannot make such enticing promises, the SPG Program appears to offer the greatest benefits, leading more than 27 million people, including Plaintiff Adams, to join.

5. As it turns out, however, none of Starwood’s claims is true.

6. Contrary to advertisements and other widely disseminated statements, there *are* blackout dates, capacity controls, and other restrictions; and participants *cannot* redeem Rewards Points as promised. Thus, Plaintiff’s sole reason for joining the SPG Program is belied by a starkly different reality.

7. As wrongful as Starwood’s conduct has been, it does not stand alone in its fraud. Amex has echoed these same misstatements through the sale of its co-branded Starwood Preferred Guest Credit Card and the Starwood Preferred Guest Business Card (collectively, “Amex Card”). On the online application for the Amex Card, Amex makes the same misrepresentations that Starwood makes—that there are no blackout dates for the SPG Program—and also directs applicants to the main SPG Program website, where Starwood makes *its* misrepresentations.

8. Moreover, individuals who join the SPG Program through Amex are forced to pay an annual fee of at least \$45 simply to receive the “benefits” promised by both Starwood and Amex.

9. Accordingly, whether a consumer joins the SPG Program through Amex or goes directly to Starwood, Program participants are induced to spend big money staying at expensive hotels to accumulate Rewards Points when they would otherwise purchase more affordable accommodations outside of the Starwood family. Moreover, members who joined via Amex are forced to pay annual fees just to receive the alleged “benefits” of the SPG Program.

10. The grim reality, however, is that all of this consumer spending is for naught, as Starwood does impose numerous restrictions on the use of Rewards Points, thus denying Program members their promised expected benefits.

11. As a result of the foregoing fraud and deceit, Plaintiff, individually and on behalf of the Class, is now forced to sue Starwood and Amex for their coordinated misconduct in connection with the SPG Program.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this nationwide class action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005 because the matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and is a class action in which some members of the Class are citizens of states different than Defendants, and at least one-third of the members of the Class are residents of states other than New York.

13. This Court has personal jurisdiction over all of the parties. Plaintiff is a citizen of the State of New York, and Defendants each have their principal place of business in the State of New York and seek the legal benefits and protections afforded by the State of New York.

14. Venue is proper in the Southern District of New York under 28 U.S.C. § 1391(a) because Defendants reside in this District.

PARTIES

15. Plaintiff S. Adams is an individual who resides in New York, New York.

16. Defendant Starwood is one of the world's largest resort companies and owns, manages, or franchises more than 860 hotels in over 95 countries under nine different brands, including Sheraton, Four Points by Sheraton, St. Regis, Luxury Collection, Le Méridien, W Hotels, Westin, aloft, and element. Starwood is a Maryland corporation with its principal place of business at 1111 Westchester Avenue, White Plains, New York 10604.

17. Defendant Amex is a global consumer financial services company specializing in issuing charge cards and credit cards. Amex is a Delaware corporation with its principal place of business at World Financial Center, 200 Vesey Street, New York, New York 10285.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action as a class action under Rules 23(a)(b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of all similarly situated members of the SPG Program between 2002 and 2008. Plaintiff and Class Members

bring this action seeking compensatory damages, punitive damages, attorneys' fees, costs, and any further relief this Court deems just and proper.

19. Plaintiff brings this class action pursuant to Federal Rule of Civil Procedure 23 ("Rule 23") in his representative capacity on behalf of himself and the Class of all persons similarly situated, defined as follows:

All individuals who participated in the SPG Program at any time from 2002 to 2008 ("Class Period").

20. This action meets the following prerequisites of Rule 23(a) by which Plaintiff may bring this action on behalf of the Class:

A. **Numerosity**. Although the exact number of Class members is presently unknown, Plaintiff is informed and thereon alleges that the Class comprises millions of consumers. The SPG Program has over 27 million members who joined or acquired points during the Class Period. The number of users of the Amex Card is unknown to Plaintiff at this time, but is undoubtedly a large number: Amex has offered co-branded Starwood cards since 1996, and all factors suggest that these Amex cards have very successful and popular. Unquestionably, the members of the Class are so numerous that joinder of all members is impracticable.

B. **Commonality**. A substantial pool of questions of law and fact exists that is common to the Class. Such common questions include, but are not limited to:

- (1) Did Starwood make false and misleading representations as to the availability of rooms under its SPG Program?
- (2) Did Starwood fraudulently induce its customers to enter into contracts and make purchases based on these representations?
- (3) Did Starwood enforce *de facto* blackout dates and capacity controls which it failed to disclose to consumers?
- (4) Did Amex knowingly make the same false statements involving availability of rooms under the SPG Program, and did Amex knowingly vouch for Starwood's own statements involving room availability?
- (5) Did Defendants violate consumer fraud protection laws?

C. **Typicality**. Adams's claims are typical of the claims of the Class. Plaintiff is an ordinary SPG Program member whom, along with all Class Members, Defendants injured by the same wrongful acts and practices as alleged herein.

D. **Adequacy**. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are antagonistic to or in conflict with the interests of the Class as a whole, and Plaintiff has engaged competent counsel experienced in the prosecution of complex and class litigation.

E. **Superiority**. A class action is superior to the alternatives, if any, for the fair and efficient adjudication of the controversy alleged herein, because of the following reasons:

- (1) joinder of all SPG Program participants is impracticable due to the Program's enormity;
- (2) individual suits are unlikely and unduly burdensome because Program members' damages are small relative to the time and effort required for litigation; and
- (3) class treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without duplication of evidence, effort, and expense that numerous individual actions would engender.

This action will result in the orderly and expeditious administration of Class claims. A class action will ensure the uniformity of decisions, thereby avoiding the risk of inconsistent and varying determinations. There is no readily apparent reason for precluding maintenance of this litigation as a class action.

F. **Maintainability.** This action is properly maintainable as a class action for the prior independent reasons and under the following portions of Rule 23:

- (a) The individual amounts of restitution involved, while not insubstantial, are generally so small that individual actions or other individual remedies are impracticable and litigating individual actions would be too costly;

- (b) Individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation;
- (c) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive, declaratory, or other appropriate equitable relief with respect to the Class as a whole; and
- (d) Individual actions would unnecessarily burden the courts and waste judicial resources.

G. **Predominance.** Questions of law and fact common to members of the Class predominate over any questions affecting only individual members. Notice to the members of the Class may be accomplished inexpensively, efficiently, and in a manner best designed to protect the rights of all Class Members.

H. New York, as the principal place of business for both Starwood and Amex and the home of many of Starwood's hotels, is the center of gravity for this action such that it is appropriate and consistent with existing law to certify a nationwide class of consumers, applying New York law. Certification of a nationwide class under the laws of New York is appropriate because Defendants conduct substantial business in New York, and a significant number of Class Members reside in New York.

STATEMENT OF FACTS

The SPG Program

21. In 1999, Starwood, one of the largest hotel chains in the world, began the SPG Program to encourage consumer loyalty. Like countless other loyalty or frequent user programs, the basic premise is simple: consumers sign up for the Program, earn Rewards Points for purchasing accommodations at Starwood's hotel brands, and use those Points to purchase goods or services, including free hotel accommodations.

22. The SPG Program encourages consumers to purchase accommodations consistently from Starwood—and not from its competitors—so Starwood can generate more revenue and garner loyalty to the Starwood brand, promoting that consumers can supposedly use their hard-earned Rewards Points to purchase hotel accommodations or other goods and services.

23. Starwood runs nine brands: Sheraton, Four Points by Sheraton, St. Regis, Luxury Collection, Le Méridien, W Hotels, Westin, aloft, and element. All of these brands participate in the SPG Program, which comprises more than 860 hotels in over 95 countries.

24. Starwood and the SPG Program offer significantly fewer properties than its major competitors: Marriott International and its Marriott Rewards program, for example, encompasses 2,800 hotels worldwide; Hilton Hotels Corporation's Hilton Honors has over 2,700 hotels; and InterContinental Hotels Group's Priority Club Rewards program offers over 3,800 properties.

25. Notwithstanding, Defendants have enticed an enormous amount of individuals to join the SPG Program. Indeed, the Program has more than 27 million members—more than Marriott Rewards’ 24 million or Hilton Honors’ eight million members—despite each of those programs offering over three times the properties of the SPG Program. The only program more popular than the SPG Program is the Priority Club Rewards Program, which has ten million more members but over four times as many properties available as the SPG Program, including the immensely popular Holiday Inn brand.

The System of Earning and Using Points

26. SPG Program members earn Rewards Points primarily by purchasing rooms at Starwood properties. Regular members, or “Preferred Guests,” earn two points for each dollar spent at a Starwood hotel.

27. After staying at a Starwood hotel either ten times or twenty-five nights, whichever comes first, Preferred Guests attain Gold Preferred status, whereby they can earn three Rewards Points for each dollar spent. SPG Program members may also purchase points at the rate of \$0.035 per point, or may earn them via the Amex Card, as discussed in further detail below.

28. Participants can redeem Rewards Points by booking accommodations at most SPG Program properties, with the cost of redemption varying by the quality rating of the hotel.

29. Room rates range from 2,000 Rewards Points per night for a weekday stay at a Category 1 hotel (the lowest quality property) to 35,000 Points per night for a “high season” stay at a Category 7 hotel (the highest quality property).¹

30. In addition to the aforementioned benefits that Starwood touts, the SPG Program offers several popular promotions for members. One such program is the Fifth Night Free program, whereby a member who redeems Points for four nights at a Category 3 or above property gets a fifth night for free. Another popular promotion is the Cash & Points offer, whereby at Category 3 through Category 6 properties (Category 1 through Category 6 in Asia Pacific hotels) a guest can receive a greatly reduced rate by redeeming fewer Points. For example, a Category 3 hotel ordinarily costs 7,000 points per night, but with Cash & Points an SPG Program member may stay at the hotel by redeeming 2,800 Points per night and spending \$45 per night.

The Amex Card

31. Amex has issued co-branded cards with Starwood since 1996, when Amex launched the ITT Sheraton ClubMiles Card.

32. In 2001, two years after Starwood launched the SPG Program, Amex began offering the Starwood Preferred Guest Credit Card. In 2006 Amex launched a business version of the card, the Starwood Preferred Guest Business Card, which is, for the purposes of this Complaint, identical to the Starwood Preferred Guest Credit Card.

¹ Notably, Starwood recently “upgraded” numerous properties from a lower category to a higher category, thus increasing the number of Rewards Points needed to reserve a room and diluting the value of these Points. (See Exhibit A.)

33. Both versions of the Amex Card are extremely popular, especially among frequent travelers and business travelers.

34. Amex charges an annual fee of at least \$45 per year to use the Amex Card but waives this fee for the first year.

35. The Amex Card integrates closely with the SPG Program, such that the Amex account holder earns one Rewards Point for each dollar spent on the Card.

36. Moreover, beyond the standard one Point earned per dollar spent, there are several ways to earn additional points, as Amex frequently offers signup bonuses and even offers 10,000 points for more applicants. Additionally, each dollar spent at a Starwood property earns two Points on top of the usual SPG Program Rewards Points, so a Gold Preferred member will earn five Points for each dollar spent.

37. This lure of rapidly aggregating Rewards Points greatly encourages consumer loyalty to both the Starwood brand and the Amex Card.

38. Upon information and belief, American Express profits immensely from its association with Starwood and the SPG Program.

Both Starwood and Amex Are Committing Fraud on a Grand Scale

39. Starwood says that its Program has no blackout dates for free night redemption, no capacity controls and states, "If there is a standard room available in the hotel, it's yours!" (See Exhibit B.)

40. Starwood further states that the SPG Program free night awards offer "award-winning hotels . . . everywhere," that "[y]ou can count on no blackout dates or

availability restrictions to hold you back,” and, “If we have a standard room available, you have a room. Always.” (*See Exhibit C.*)

41. Starwood further promises: “Free Night Awards with No Blackouts. Notably the richest redemption opportunity offered, this benefit assures participants’ ability to redeem Starpoints any time you want to go. If there is a standard room available, it’s yours.” (*See Exhibit D.*)

42. Acting in complicity with Starwood in its fraud, Amex repeats Starwood’s misstatements on its own website. Amex asserts that there are “no blackout dates” in the SPG Program and directs potential customers to the main SPG website for “full program details,” where customers then see Starwood’s representations. (*See Exhibit E.*)

43. Additionally, Amex lays out numerous additional details about Starwood, the SPG Program, and the Amex Card on other Amex website pages (*See Exhibit F*), thereby providing browsing consumers with every bit of misinformation needed to seduce them into enrolling in the SPG Program.

44. Misstatements concerning the Program’s “benefits” are material, as the policy of no blackout dates, no capacity controls, and no other restrictions is precisely why consumers select the SPG Program over competing programs.

Plaintiff’s Experience in the SPG Program

45. In or around late 2005 or early 2006, Plaintiff saw an online advertisement for Starwood’s SPG Program that hailed the Program’s merits, including no blackout dates, capacity controls, or other material restrictions.

46. Having grown accustomed to the restrictions associated with airlines' frequent flyer programs, Plaintiff decided to take advantage of the advertised benefits and joined the SPG Program in lieu of a competing hotel rewards program.

47. Plaintiff Adams joined the SPG Program via Amex, paying at least \$45 in annual fees, excepting the first year.

48. Prior to enrolling in the SPG Program, Plaintiff stayed in hotels approximately fifteen times per year.

49. After Plaintiff enrolled in the SPG Program, Plaintiff has stayed in hotel rooms at approximately the same frequency, but Plaintiff began to spend more on accommodations to accumulate the supposedly valuable Rewards Points.

50. Indeed, relying on Defendants' assertions that Rewards Points could be used limitlessly, with no blackout dates or other restrictions, Plaintiff has foregone cheaper lodging in an attempt to accumulate Rewards Points.

51. In or around March 2007, Plaintiff contacted a Starwood Travel Agent by telephone, attempting to book a room at the San Francisco Sheraton Gateway Hotel—a Starwood property—using his Rewards Points.

52. Acting on behalf of Starwood, the Starwood Travel Agent told Plaintiff that there were no rooms available.

53. Immediately thereafter, Plaintiff attempted to book a room for the same date at the same Starwood property using his credit card, not his Rewards Points.

54. Although there were no rooms available when Plaintiff attempted to reserve a room using his Rewards Points, Plaintiff learned that *several* rooms at the same property were available, just not to those attempting to redeem their Rewards Points.

55. What happened to Plaintiff in or around March 2007 was not an isolated incident: this has happened on multiple occasions and at multiple Starwood properties.

56. As it turns out, and contrary to all of Starwood's and Amex's statements concerning the utility of Rewards Points, there *are* blackout dates, capacity controls, and other restrictions imposed upon those wishing to use their Points to purchase accommodations.

57. Whereas Plaintiff joined the SPG Program solely because of the advertised lack of restrictions on the use of Rewards Points, the grim reality is that both Starwood and Amex are misleading 27 million people into purchasing more expensive accommodations when the upside is minimal. Blackout dates, capacity limitations, and other restrictions *do* exist, and they exist in such a way as to deprive Program participants' of the use of their Points

58. Moreover, Amex is inducing individuals to pay Amex annual fees just to participate in the SPG Program by echoing Starwood's same misrepresentations.

59. As a result of Plaintiff and Class Members' reliance on Defendants' false and misleading statements, Plaintiff and other Class Members have spent substantially more money on hotels than they otherwise would have.

60. Throughout all of this, Defendants have reaped substantial profits as a direct result of Plaintiff's and the Class's increased spending, and they have avoided

any added expense by failing to make good on their promises concerning the value and utility of Rewards Points.

CLAIMS AGAINST STARWOOD

FIRST CAUSE OF ACTION

(Breach of Contract)

61. Adams repeats and realleges paragraphs 1 through 60 above as though fully set forth herein.

62. In or around late 2005 or early 2006, after seeing online advertisements, Plaintiff contracted with Starwood, through Amex, to participate in the SPG Program.

63. Although Amex waived its annual fee for the first year, Adams has paid at least \$45 each subsequent year in order to accrue benefits under the SPG Program.

64. A key element of the contract promised that SPG Program participants could redeem accrued Rewards Points for accommodations in any available hotel room and that there were no blackout dates or capacity controls.

65. Adams relied upon this promise in enrolling into the SPG Program.

66. In or about March 2007, Adams attempted to book a room using his Reward Points at the San Francisco Sheraton Gateway Hotel, a SPG Program accommodation, using a Starwood Travel Agent, authorized and employed to act on behalf of Starwood.

67. The Travel Agent told Adams that the hotel had no rooms available.

68. Immediately thereafter, Adams called back and attempted to book a room at the same hotel for the same date using his credit card, not his Reward Points.

69. This time, the Travel Agent told Adams that there was a room available.

70. By forcing Adams to use his credit card and preventing Adams from redeeming his Rewards Points, Starwood, acting through its Travel Agent, breached the terms of Program agreement stating that there are no blackout date or capacity limits.

71. Starwood knew or should have known that its Travel Agents were not abiding by the requirements of the SPG Program agreement.

72. Starwood's breach directly resulted in injury to Adams and the other members of the proposed Class. Amex by inducing Adams into spending more money on expensive lodging and by wrongfully and fraudulently preventing Adams from using his hard-earned Rewards Points.

SECOND CAUSE OF ACTION

(Breach of Fiduciary Duty)

73. Adams repeats and realleges paragraphs 1 through 72 above as though fully set forth herein.

74. Starwood's SPG Program Administrators are described as Travel Agents and Travel Professionals, and, as a result, are viewed by SPG Program participants as information specialists upon whom they may rely for provision of accurate and truthful information.

75. Starwood Travel Agents have a fiduciary duty to SPG Program participants.

76. Agents breached their fiduciary duty to Adams and the proposed Class: Agents failed to provide SPG Program participants with complete and accurate

information with respect to hotel availability, and Agents failed to advise Program participants of restrictions on the use of their Rewards Points.

77. As a direct and proximate result of their breaches of fiduciary duty, Adams and the Class have suffered substantial damages, losses and injuries.

CLAIMS AGAINST ALL DEFENDANTS

THIRD CAUSE OF ACTION

(Fraudulent Misrepresentation)

78. Adams repeats and realleges paragraphs 1 through 77 above as though fully set forth herein.

79. Defendants defrauded consumers by using deceptive conduct to persuade consumers to join the SPG Program.

80. Defendants used false advertising to misrepresent the terms of the Program, claiming that the Program provides participants with hotel rooms in exchange for Rewards Points.

81. The key element of the Program is its promise to provide SPG Program participants with any available room, with no blackout dates or capacity controls, in exchange for accrued Reward Points.

82. In reasonable reliance on Defendants' statements there were no blackout dates or capacity controls in connection with redeeming SPG Program Rewards Points. Adams and the Class Members enrolled in the SPG Program and, moreover, purchased expensive accommodations at Starwood's properties in an attempt to accumulate Rewards Points.

83. The Defendants misled Program participants, as there *are* de facto blackout dates, capacity controls, and other restrictions.

84. Defendants' sale of the SPG Program constitutes a deceptive and fraudulent action.

85. Defendants' unlawful, fraudulent, and unfair conduct injured Adams and the other members of the proposed Class.

FOURTH CAUSE OF ACTION

(Negligent Misrepresentation)

86. Adams repeats and realleges paragraphs 1 through 85 above as though fully set forth herein.

87. Defendants made untrue statements with respect to the SPG Program in order to profit from the customer loyalty engendered by the Rewards Program, loyalty that arose in reliance on Defendants' statements.

88. Starwood and Amex were aware that their promises of no blackout dates or capacity controls were untrue, as Starwood Travel Agents denied SPG Program participants access to available rooms in exchange for their Rewards Points.

89. Defendants' unlawful, fraudulent, and unfair conduct injured Adams and the other members of the proposed Class.

FIFTH CAUSE OF ACTION

(Unjust Enrichment)

90. Adams repeats and realleges paragraphs 1 through 89 above as though fully set forth herein.

91. Defendants' use of false advertising and fraudulent and deceptive conduct to persuade consumers to purchase the SPG Program resulted in unjust enrichment.

92. Defendants' unlawful, fraudulent, and unfair conduct provided revenues, which unjustly enriched the Defendants at Adams's and Class Members' expense.

93. Specifically, Starwood was unjustly enriched, as Plaintiff and Class Members were induced to purchase more expensive accommodations with the expectation of being able to use their Rewards Points without restrictions.

94. Additionally, Amex was unjustly enriched, as Plaintiff and Class Members joining the SPG Program through Amex were induced into paying at least \$45 in annual fees (excepting the first year) simply to participate in the SPG Program.

95. Under the circumstances alleged herein, it would be unfair and inequitable for Defendants to retain the unjustly obtained profits.

SIXTH CAUSE OF ACTION

(Deceptive Business Practices under N.Y. G.B.L. § 349)

96. Adams repeats and realleges paragraphs 1 through 95 above as though fully set forth herein.

97. At all times relevant herein, the advertising, promotional, sales, operation and guide materials and other promotional and sales efforts undertaken by Defendants constituted consumer-oriented assertions, representations or statements concerning the absence of restrictions on the use of Rewards Points within the SPG Program.

98. These statements were untrue, deceptive, and misleading in a material respect, as there were many restrictions—including blackout dates and capacity controls—on the manner in which Program members could use their Rewards Points.

99. Defendants *knew*, or through the exercise of reasonable care should have known, that there were, in fact, restrictions on the use of Rewards Points earned through the SPG Program.

100. Defendants' deceptive and misleading conduct caused Plaintiff and the Class an actual injury or loss, in violation of N.Y. G.B.L. § 349.

101. Pursuant to N.Y. G.B.L. § 349, Plaintiff and the Class members are entitled to restitution, actual damages and/or recovery of treble damages upon defendants' violation of said statute, and costs, disbursements and attorney fees relating thereto.

SEVENTH CAUSE OF ACTION

(False Advertising under N.Y. G.B.L. § 350)

102. Adams repeats and realleges paragraphs 1 through 101 above as though fully set forth herein.

103. At all times relevant herein, the advertising, promotional, sales, operation and guide materials, and other promotional and sales efforts undertaken by Defendants across New York State and nationwide constituted advertising devices, publicly disseminated by defendants, containing consumer-oriented assertions, representations and statements regarding the use of and absence of restrictions pertaining to the use of Rewards Points in connection with the SPG Program.

104. These consumer-oriented statements were untrue, or implied information that was untrue, deceptive and materially misleading, as there were many restrictions—including blackout dates and capacity controls—on the manner in which Program members could use their Rewards Points.

105. These consumer-oriented statements were known, or by the exercise of reasonable care should have been known, to be untrue, deceptive or misleading by Defendants, in violation of New York’s false advertising statute, N.Y. G.B.L. § 350.

106. Defendants knew, or should have known, that their representations were false in a material respect or falsely implied a material fact about which the public was likely to be misled. Specifically, Defendants knew, or should have known, that statements that there are “no blackout dates or availability restrictions” would lead consumers to believe that there are, in fact, no restrictions on how Program members may use their Rewards Points to purchase accommodations at a Starwood property.

107. Pursuant to N.Y. G.B.L. § 350, Plaintiff and the Class members sustained damages as set forth above and are entitled to restitution, their actual damages, and recovery of treble damages upon Defendants’ violation of said statute, and costs, disbursements and attorney fees relating thereto.

EIGHTH CAUSE OF ACTION

(Unfair Competition)

108. Adams repeats and realleges paragraphs 1 through 107 above as though fully set forth herein.

109. Defendants lured consumers into participating in the SPG Program by disseminating fraudulent and deceitful misstatements.

110. By way of Defendants' misstatements, Plaintiffs were induced to enroll in the SPG Program and then, to accumulate Rewards Points by staying at pricey Starwood Properties, to forego cheaper accommodations in non-Starwood hotels.

111. Defendants' unfair conduct injured Adams and the other members of the proposed Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated, prays that this Court enter judgment against Defendants as follows:

1. an Order certifying the Class, and appointing Plaintiff and his undersigned counsel of record to represent the Class;
2. a permanent injunction enjoining Defendants, their partners, joint venturers, subsidiaries, agents, servants, and employees, and all persons acting under, in concert with them directly or indirectly, or in any manner, form in any way engaging in the practices set forth herein;
3. a permanent injunction enjoining Defendants, their partners, joint venturers, subsidiaries, agents, servants, and employees, and all persons acting under, in concert with them directly or indirectly, or in any manner, from utilizing any monies acquired by Defendants' unfair business practices, including all profits, revenues, and proceeds both direct and indirect;
4. imposition of a constructive trust upon all monies and assets that Defendants have acquired as a result of their unfair practices;
5. compensatory damages and full restitution of all funds acquired from Defendants' unfair business practices, including disgorgement of profits; actual damages suffered by Plaintiff and Class members;
6. punitive damages, to be awarded to Plaintiff and each Class member;
7. costs of suit herein;
8. investigative costs;

9. both pre- and post-judgment interest on any amounts awarded;
10. payment of reasonable attorneys' fees;
11. declaratory relief; and
12. such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: New York, New York
July 16, 2008

Respectfully submitted,



Craig Stuart Lanza (CL-2452)
John Balestriere (JB- 3247)
BALESTRIERE LANZA PLLC
225 Broadway, Suite 2900
New York, NY 10007
Telephone: (212) 374-5400
Facsimile: (212) 208-2613
Attorneys for Plaintiff

Exhibit A

ELLIOTT

Contact me: chris@elliott.org

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Starwood devalues award points in a “pretty sneaky” way

Why cut your frequent flier program and face public humiliation, as [US Airways](#) did last week, when you can quietly chip away the value of your awards in relative private? That's what Starwood Hotels, which owns the Four Points, Sheraton and W brands, must have been thinking when they announced changes to their rewards program yesterday. The announcement began harmlessly enough, as these announcements always do:

To help you maximize your Starpoints, we wanted you to be aware of our annual award chart update taking place on March 4, 2008.

Ah, maximizing Starpoints. Who wouldn't want that? But it soon becomes apparent that Starwood isn't talking about your maximization, but its own.

On a yearly basis we adjust our award categories based on each hotel's average annual room rate for that year. Among our most popular hotels for Free Night redemption, only a handful are moving this year. However, if you are thinking of using your Starpoints for a getaway we suggest you view the upcoming changes to decide if you should book now or wait until after March 4, 2008. To see which hotels are moving categories, [click here](#).

[Ads by Google](#) [Travel Rewards](#) [Resort Hotels](#) [Hotel Rewards](#) [Hotel Contest](#)

Reader Jonathan Yarnis isn't sure how “routine” Starwood's devaluation is. And he's not pleased with the changes.

Talk about inflation. A quick perusal of the changes shows 9 hotels whose category declined and I would estimate 10 times as many that increased in category. I didn't count the increases nor did I do any analysis of the pattern but this inequity jumped out at me. They're not changing the redemption rates, they just change how they categorize the hotels. Pretty sneaky.

Sneaky, yes. And brilliant. Instead of a large and public cut, which seems to be the preferred method of devaluation used by the airline industry, Starwood is whittling away the value of its program incrementally. Almost so slowly that practically no one will bother noticing. Is this a model for airlines to follow? Why not? If it can prevent another PR disaster, it's worth a try.

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Comments

9 Responses to “Starwood devalues award points in a “pretty sneaky” way”

1. On February 20th, 2008 at 9:49 am Joe F. said

points here, miles there - anyone who ever joins any program offered by a retailer and thinks they will get any real benefit in the form of free anything is always like the fool and his money - soon parted from reality.

The ‘loyalty’ programs are designed to make you think you are getting something when in reality all the program does is link you to the retailer by the hip. Look at American’s AAdvantage program. They actually charge MORE for airline tickets than other airlines - they RARELY come up as the least expensive in Expedia or Travelocity / Orbitz listings. This is intentional - they think [correctly it appears] that people will fly them preferentially because they make it so EZ to accrue miles from partners, and some drivel I’ve heard that people see them as a premium product.

I use airline miles exclusively for guaranteed upgrades at coach fares. Period. I have NEVER - and I mean NEVER - found a free coach ticket at the times and dates I needed it. That being said, I HAVE found First Class for 45,000 miles instead of coach at 50,000 - which is a nice surprise. But never the exact date or time you want.

Hotel and car rental plans are worthless - all they do is create a point of comparison where the company can TELL you are a very good customer and treat you accordingly. I would rather get a good room, a nice discount, a free breakfast or bottle of wine or upgrade to the Club Floor NOW, than try to figure out later how to get a free room night and then get ripped off paying for subsequent nights.

True Story - Starwood Chain. We had a free night anywhere. Enough points to avoid all the blackouts and limits and reprices. When I called to redeem - and had enough for 2 nights of a 5 night stay, they tried to charge me the full rack rate for the next 3 nights which would have cost more than simply booking online at the discounted rate - and they tried to claim that my nights were not combinable with a discount. So, I did what any half way intelligent person does - I made the reservation for 2 nights - and then booked the other 3 online at a discounted price.

When we got to the hotel the desk clerk told me we’d have to move to a different room after the 2 free nights - with no reasonable or logical explanation - other than the discounted room entitled us to a less desirable location in the hotel I guess. I spoke to the manager who overrode their computer system and took care of it - so I tipped him \$20.

Just remember - ask - and if you get - tip. \$20 goes a long way in this world with folks making \$10-12 an hour.

Airline and hotels make lots of money on the frequent traveler programs - never rely on them for anything other than better service NOW - if you think that you will be able to use them for some benefit in the future - you are now forewarned that the value of previously earned units are devalued on a regular basis - just like real money!

2. On February 20th, 2008 at 11:27 am Jasper said

@ Joe F: You are right that people should not expect too much from loyalty programs. There is no such thing as a free lunch. On the other hand, I have happily used my United miles twice now to fly for free*. Once to Amsterdam, and once to the USVIs. No problem with that.

However. The thing that makes customers angry is that airlines make all kinds of promises** to customers. Airlines are not required to have these programs. They invented them. They made all kinds of promises**. Customers simply do not appreciate the fact that they were given nothing***.

In short: It is rude to 'give' someone (a customer) something he didn't ask for, and then later take (part of) the 'gift' away.

Again, airlines can do as they please. But that includes the option of angering, frustrating and disappointing customers. I am not a business expert, but it seems to me that angering, frustrating and disappointing your customers is among the smart business moves.

* Free only after paying airport taxes, terror non-sense charges, and a small handling fee

** Well, promises, more like legal proof marketing impressions that are better than reality

*** Blacked out flights/hotel room/car rentals, i.e. frustration.

3. On February 20th, 2008 at 3:44 pm Mike said

I find that the main benefit I get is having elite status with airlines and hotels. It does mean better service, especially when something goes wrong. Hotels may upgrade you to a better view or a suite. Airlines will give you priority in rebooking, etc.

I recently had an American flight cancel and there were very few options for the remainder of the day. I think because I am Platinum I was confirmed in First all the way home, with no miles or electronic upgrade points subtracted. Many other people were rebooked on another airline. I would have taken the other airline, but both situations involved overnight flights so I naturally took the upgraded flight.

What I found distasteful about the Starwood change was the phrase "only a handful are moving this year". There were dozens of changes, primarily to higher categories. I don't consider dozens of changes to be a handful.

4. On February 20th, 2008 at 5:31 pm Deja Vidor said

Mike I agree with your point about points helping you get better service: "If you have points, we will treat you nicely."

But the more accurate description is like a protection racket: "if you DON'T have points, we will freely abuse you as a customer".

That is why I will never fly United again, unless I absolutely have to (unfortunately, more often than I

like, due to schedules and destination). Early on, I had few points, and they bumped me in the worst way. Now I have points and I get better treatment, but I remember the past insult.

5. On February 21st, 2008 at 11:31 am Mike said

Deja Vidor, I agree with your point. I am faced with a business trip that will require either UA, US or WN. No matter which airline I choose, I will be a nobody for that trip.

I stopped flying UA after the disruptions of 2000 (and the way they treated their employees in bankruptcy). I don't like US' new no-minimum mileage policy or the merger with the former HP. I guess I will pick WN by default.

6. On February 21st, 2008 at 7:15 pm Jeff said

I really dont see what all the complaining is about. I travel for business and am a UA 1K, Northwest Plainum, Emirates gold and Starwood Platinum. In the last year I have redeemed FREE FIRST CLASS tickets from NY to Dubai, Germany, Amsterdam, London, South Africa, Singapore and Hong Kong. (7 tickets valued at close to \$100,000.00) (All flights on UA, AF, EK, LH, SR and SQ) As for Starwood, I enjoy the upgrades, etc you get by being a platinum member so I never used any points. Last summer I had 2 months off and finally used my points for a free month - 1week each in Mauritius, Sharm El shek, Fankfurt and Doha (28 nights valued at close to \$10,000) Yes, I give the airlines lots of business but this is a great way for them to say thanks. (better yet, if you are like me and most of you are, its our comapnies who pay for our busesss trips anyway. This allows us to take our vacations for free. (PS - I just decided to go to Germany next week for 5 days. I went on the Emirates web site, put my dates from NY to Hamburg in, chose first class and 5 minutes later had my FREE ticket. dates and class I wanted. I always here the exerts saying to book way in advance. I find it much easier to book a week or 2 before my trip...this is when the airlines free up inventory.

7. On February 26th, 2008 at 11:23 am Michael said

I discovered the Starwood American Express card a couple years ago, and it has been my primary card since then. I charge several hundred thousand dollars a year in business expenses through the card, so i accumulate a ton of points which I use for family trips and vacations.

Starwood is an incredible value. When you transfer points to miles, you get a 5k bonus for every 20k you transfer, essentially giving you 1.25 miles per dollar. The selection of airlines you can transfer to is better than anywhere else (including Membership Rewards, which doesn't include American Airlines). You can get many of their lower end hotels (such as Four Points and some Sheratons) for a little as 2-3k/night. I find it harder to justify the 5, 6, and 7 star hotels at 12-35k/night. Nights & Flights is a great option for their 3 and 4 star hotels. 5th Night Free is a good option for 5 and 6 star hotels if staying 5 nights is convenient. Cash & Points can be a good option for their 4, 5, and 6 star hotels.

They had a similar reclassification last year, although I don't think they did much notification of it. (I don't know if they have done it before that, because I've just been a member for a year and a half.) It's only natural that most would increase in value (especially ones where there was extensive rennovation). Only a relatively small percent of their properties changed classes.

I'm a Starwood Gold, and I get frequent upgrades (even for rooms paid for with points, which is almost exclusively how I pay). I've been very pleased.

Also, I should note that I put the link to Starwood's Point Comparison as my website, for easy reference to the myriad of hotel redemption options. I have no relationship with Starwood other than being a happy customer.

8. On February 26th, 2008 at 1:47 pm Brad said

Hotel programs by definition work differently than airlines, because they are dollar-based instead of mile-based.

If we assume a customer's average flight is 1000 miles one-way, then it takes 25 one-way flights to earn one free round-trip. If airfare gets more expensive, then the customer pays more to earn, but earns a more expensive rewards — so from the airline's perspective, it all should work out in the end.

With dollar-based hotel programs, inflation alone is going to cause hotel redemption rate inflation. If hotel rates rise, customers earn more points (which doesn't happen with the airline miles model). It only makes sense then that the reward should also require more points.

As a customer, would I prefer that reward levels stay the same? Of course. But I also understand the business model and see why this hotel reward inflation occurs.

At least Starwood was nice enough to let everyone know of the upcoming changes and provide time to book rewards at the current level. Among hotel brands, this reward inflation certainly isn't unique to Starwood, and it seems most hotel programs just raise the redemption rates with no warning. The no-warning changes from other hotel programs are the ones that ought to be labeled "sneaky."

9. On June 5th, 2008 at 4:01 pm Kris said

I just realized today that Starwood is also doing something else that saves them a lot of points - I checked my balance after having stayed some nights at Sheraton Fishermans Warf recently, and realized that I had only been given points for the value of the extras, not the room. So I called Starwood today to complain only to learn that only some rates qualify for points. Problem is, that the websites and the central customer service does not show if a rate earns points or not. So you'd in principle have to call the actual hotel you're planning to book to find out if a rate earns points. Also those stays does not count towards membership level. Let me just say that I'm really dissapointed...

Please share your thoughts...

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Ahh, but you *want* to. So here's the deal. Sign up now for my RSS feed or get Elliott's E-Mail, my free newsletter, every week. You can also receive an ad-free e-mail update every day. Otherwise, you really *don't* get it.



Underwriters

Carrentals.co.uk - The car hire comparison search engine.

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[FirstClassFlyer.com](#) - The only tool you need to fly first class for the price of coach.

[GIG.com](#) - The household name in global travel protection.

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CLEARLY THERE ISN'T ENOUGH
ART IN OUR SCHOOLS.



Exhibit B

For help, call 888-625-4988

About Starwood Preferred Guest

[Program Overview](#) [Member Tiers & Benefits](#) [Program Comparison](#) [▶ INTERACTIVE TOUR](#)

Compare Starwood Preferred Guest to Other Frequent Guest Programs

Last Updated on June 5, 2008

Hotels and Resorts

Frequent Guest Program	Starwood Preferred Guest	Marriott Rewards	Hilton HHonors	Hyatt Gold Passport	Priority Club Rewards
Participating brands	<ul style="list-style-type: none"> Sheraton Four Points by Sheraton St. Regis Luxury Collection Le Méridien W Hotels Westin aloft element 	<ul style="list-style-type: none"> Marriott JW Marriott Renaissance Courtyard Fairfield Inn Residence Inn TownePlace Suites SpringHill Suites Ritz-Carlton* Bvlgari 	<ul style="list-style-type: none"> Hilton Doubletree Embassy Suites Hampton Inn Homewood Suites Conrad Hotels Hilton Garden Inn Scandic Hilton Grand Vacations Waldorf = Astoria 	<ul style="list-style-type: none"> Hyatt Park Hyatt Grand Hyatt Regency Hyatt Hawthorn Suites Hyatt Place Hyatt Summerfield Suites AmeriSuites Andaz Hyatt Resorts 	<ul style="list-style-type: none"> Inter Continental Crowne Plaza Holiday Inn Holiday Inn Express Staybridge Suites Candlewood Suites Hotel Indigo
Number of hotels worldwide	Over 860	Over 2,800	Over 2,700	Over 470	Over 3,800
Number of countries	Over 95	Over 60	Over 70	Over 40	Over 90

Member Rewards & Benefits

Frequent Guest Program	Starwood Preferred Guest	Marriott Rewards	Hilton HHonors	Hyatt Gold Passport	Priority Club Rewards
Blackout dates on free night redemption	no	yes	no	no	no
If there is a standard room available in the hotel, it's yours! Standard rooms as defined by each participating property	yes	yes	yes	no	no
Minimum points required to redeem a free weekend night	2,000	7,500	10,000	5,000	10,000

award

Cash & Points - use combination to attain awards faster	yes	no	yes	no	yes
Conversion of points to airline miles	1 point = 1 mile on most airlines	5 points = 1 mile for lowest level of redemption	10 points = 1 mile for most airlines	2.5 points = 1 mile	5 points = 1 mile on most airlines
Point transfer bonus	yes - 5,000 point bonus when transferring 20,000 points to miles	no	no	yes - 5,000 mile bonus when transferring 50,000 points to miles	no
Credit card which earns additional points	American Express MasterCard	Visa	Visa & American Express	None	Visa
Number of redemption partners	Over 40	Over 40	Over 50	Over 30	Over 100

Elite Privileges

Frequent Guest Program	Starwood Preferred Guest	Marriott Rewards	Hilton HHonors	Hyatt Gold Passport	Priority Club Rewards
Elite point bonus	50% for all elite	Varies - 20-30%	Varies - 15-50%	Varies - 15-30%	Varies - 10-50%
Platinum Concierge(SM) Service via toll-free #	yes	yes	no	no	no

Program Honors

Frequent Guest Program	Starwood Preferred Guest	Marriott Rewards	Hilton HHonors	Hyatt Gold Passport	Priority Club Rewards
Since 1999, the number of times awarded 'Frequent Guest Program of the Year', voted by business travelers.**	6	1	0	0	2
Number of 2007 awards won in Frequent Guest Program categories	10	10	0	1	4

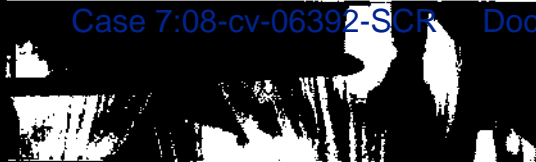
* Partner Brand: Members may redeem points at these properties but do not earn points on their stay.

**As voted by frequent travelers at the annual Freddie Awards, the most prestigious consumer-generated awards in the industry.

Information has been verified to the best of our ability. Sources included insideflyer.com, flyerguide.com, flyertalk.com, several search engines, travel websites and program websites.

Last Updated on June 5, 2008.

Exhibit C



Section 1: Award-winning Hotels

Access to a World of Wonderful Hotels

Starwood Preferred Guest enables you to get out there and experience amazing adventures. Choose from award-winning hotels in destinations from San Francisco to Sydney and everywhere in between. Reward yourself with a stay using one of our convenient redemption options such as Free Night Awards. You can count on no blackout dates or availability restrictions to hold you back. If we have a standard room available, you have a room. Always.



NINE DISTINCTIVE BRANDS



OVER 860 AMAZING HOTELS



ROOM REDEMPTION MADE SIMPLE



MAIN MENU

The Laguna Nusa Dua Resort & Spa, A Luxury Collection Resort, Indonesia

Award-winning hotels, whenever you want.

See how Starwood Preferred Guest lets you access a world of incredible experiences – where blackout dates don't exist on Free Night Awards.



TAKE THE TOUR

Section 1: Award-winning Hotels



NINE DISTINCTIVE BRANDS



OVER 860 AMAZING HOTELS



ROOM REDEMPTION MADE SIMPLE



Retreat & Spa Maldives

Room Redemption Made Simple

CLOSE

If we have a standard room available, you have a room. It's that simple. When it's time to redeem your Starpoints® you don't have to worry about blackout dates, the need to use extra Starpoints or be an elite tier member. In response to this innovative approach to redemption, Starwood Preferred Guest has been awarded "Best Award Redemption" at the annual Freddie Awards for eight years running.

NEXT | SECTION 2: MEMBERSHIP TIERS ▶



MAIN MENU

The Laguna Nusa Dua Resort & Spa, A Luxury Collection Resort, Indonesia

Award-winning hotels, whenever you want.

See how Starwood Preferred Guest lets you access a world of incredible experiences - where blackout dates don't exist on Free Night Awards.



TAKE THE TOUR

Exhibit D

For help, call 888-625-4988

About Starwood Preferred Guest

Program Overview

Member Tiers & Benefits

Program Comparison

 INTERACTIVE TOUR

Preferred
Guest

While Preferred Guest® is the program's basic level, it provides anything but basic. It provides entrée to a rich world of extraordinary travel and entertainment experiences.

Gold Preferred

Welcome To A World Of Award-Winning

As part of our program, you will have access to a wide range of benefits and redemption opportunities that include dozens of accolades. Our remarkably valuable currency, Starpoints®, will transform your loftiest travel and entertainment dreams into rich reality, from free nights at some of the most enchanting hotels on earth to many other travel, merchandise and once-in-a-lifetime entertainment rewards.

- At the Preferred level, you will earn 2 Starpoints per every eligible dollar spent at over 860 of Starwood's participating properties.
- Redeem Starpoints for a host of extraordinary rewards, including free nights. With our no blackouts policy, if there is a standard room available it's yours with no extra point charges.
- Starpoints never expire as long as you have Starpoints activity at least once every 12 months.

[Learn about Gold Preferred Benefits](#) ▶



[Download Preferred Guest Member Guide](#)

Reward Opportunities Around The World

- **Free Night Awards with No Blackouts.** Notably the richest redemption opportunity offered, this benefit assures your ability to redeem Starpoints *any time* you want to go. If there is a standard room available, it's yours. And you can achieve a free night with as few as 2,000 Starpoints for Category 1 properties¹. [See details](#)
- **Award Flights.** Transfer Starpoints to more than 30 major airlines, most on a 1:1 basis. Plus receive a 5,000 Starpoint bonus when you transfer 20,000 Starpoints to miles². [See details](#)
- **Cash & Points.** Redeem Free Nights Awards using a combination of cash and Starpoints³. [See details](#)
- **Redeem for Room and Suite Upgrades.** At participating hotels, where available, upgrade to a Specialty Room for a few as 1,000 Starpoints or a Suite for as few as 3,000 Starpoints⁴. [See details](#)
- **5th Night Free.** Redeem 4 nights at select properties and your 5th consecutive night is free⁵. [See details](#)
- **50% off Rack Rate.** Redeem 1,000 Starpoints for a 50% off regular rack rates certificate⁶.
- **Nights & Flights.** Use Starpoints to pay for your airfare *and* hotel costs⁷. [See details](#)

- **Instant AwardsSM** Redeem from an array of in-hotel indulgences. Ask about it at the hotel.
- **Partners.** Redeem for products and services from our list of partners. [View our partner list](#)
- **MomentsSM** Redeem for once-in-a-lifetime experiences. [Go inside](#)

Additional Benefits To Embrace

- Buy Starpoints to achieve free nights, free flights or room upgrades faster. [Buy Starpoints](#)
- Enjoy an exclusive 35% discount at more than 125 participating destinations worldwide, including Hawaiian resorts and European cities⁸.
- Redeem Starpoints instantly online, over the phone or at the hotel.
- Transfer Starpoints between accounts with members of the same household.
- Earn rewards even faster with The Starwood Preferred Guest[®] Credit Card from American Express, which rewards you with Starpoints for every dollar spent—starting with **10,000 bonus Starpoints with your first purchase⁹**. For Personal Use - [Apply Now](#) | For Business Use - [Apply Now](#)

Be a part of our extraordinary program 

1. No blackouts applies to standard rooms only. Starpoints required for a free night range from 2,000 Starpoints for a weekend night in a standard room at a Category 1 hotel to 35,000 Starpoints for any night in a standard room at many Category 7 hotels. Category 7 properties that are all suites or villas require a higher Starpoint redemption.
2. 5,000 Starpoints[@] bonus is awarded only when 20,000 Starpoints are transferred as part of the same transaction and is based on airlines with a 1 Starpoint[@] to 1 mile conversion rate; equivalent bonus will be awarded in accordance with other airline conversion rates. A domestic ticket includes airfare only. Fees, taxes, and terms and conditions vary by airline. For a list of participating airlines, transfer ratios and full program details, go to www.spg.com. Participating airlines and transfer ratio are subject to change. Check with your frequent flyer program for details on redemption of airline miles.
3. Cash & Points required range from \$25 and 1,200 Starpoints at a participating Category 1 property in Asia Pacific to \$150 and 8,000 Starpoints at a participating Category 6 property. Offer is valid only at properties participating in the promotion. Cash & Points is offered at Category 1 and 2 hotels in Asia Pacific only. Cash & Points is not offered at Category 7 hotels. Black-out dates may apply. Rooms are for single or double occupancy; charges may apply for additional guests. Guest is responsible for all taxes and service charges affiliated with the award reservation. The USD cash component of this award is as listed. The USD amount will be converted to local currency when it is posted to the guest's folio.
4. Number of Starpoints required for upgrade are per room/per night and range from 1,000 Starpoints for a room upgrade at a Category 1 property to 2,750 Starpoints for a room upgrade at a Category 7 property and 3,000 Starpoints for a suite upgrade at a Category 1 property to 35,000 Starpoints for a suite upgrade at a Category 7 property. Upgrade types may include larger rooms, a Club Room, Westin Guest Office[®], Corporate Club Room, Smart Room, a room on a floor that may include Club Lounge Services or Concierge Services, suites, or a room based on type of view or floor within the hotel. Types of rooms available varies by property. Category of upgrades and Starpoints needed for an upgrade are determined by each property and are subject to availability.
5. The free night offered with any Fifth Night Free Award applies only to the fifth consecutive night within the same stay and the same room for which that award was ordered. There will be no Starpoints refund or free night credit for any unused portion of a Fifth Night Free Award.
6. 50% Off Regular Rack Rates awards are subject to availability and are valid for a stay of five nights or less.
7. Members can redeem 60,000 Starpoints for 50,000 airline miles and five nights at a [Category 3](#) property, or 70,000 Starpoints for 50,000 airline miles and five nights at a [Category 4](#) hotel or resort. Nights & Flights redeemed must be made by calling your local [Customer Contact Center](#) at least 30 business days prior to the arrival date. This award is only offered with airlines with a 1 Starpoint to 1 Airline mile transfer ratio.
8. Discount is off of rack rate at participating resorts, based on availability at the time of reservation. Advance reservations are required.
9. Available in US only. To be eligible to receive 10,000 bonus Starpoints, you must make your first purchase with the Starwood Preferred Guest[®] Credit Card within one year of Card approval. Bonus Starpoints are for first-time Starwood Preferred Guest Credit Cardmembers only.

Exhibit E



HOME PERSONAL CARDS TRAVEL SMALL BUSINESS CORPORATIONS MERCHANTS

PERSONAL CARDS

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Manage Your Account Explore Rewards & Benefits Additional Products & Services Apply for a Card



EARN 10,000 STARPOINTS¹
THE FIRST TIME YOU USE THE CARD.

Make your first purchase. Then, make your reservations.



Starwood Preferred Guest & Starwood Preferred Guest Business Card



FOR PERSONAL USE:

> APPLY NOW

STARWOOD PREFERRED GUEST[®] CREDIT CARD



FOR BUSINESS USE:

> APPLY NOW

STARWOOD PREFERRED GUEST[®] BUSINESS CARD



BEST AFFINITY CREDIT CARD
TWO YEARS IN A ROW | 2006 & 2007

The Starwood Preferred Guest Credit Card from American Express was voted Best Affinity Card at the Freddie Awards 2 years running.

ALL CARDMEMBERS:

Earn free nights and upgrades at over 860 hotels and resorts - no blackout dates²

Have the option to transfer Starpoints[®] - most on a 1-to-1 basis - to over 30 frequent flyer programs³

Earn Double Starpoints on stays at participating Starwood hotels and Resorts⁴

Pay no annual fee for the first year (and only \$45 thereafter)

PLUS, BUSINESS CARDMEMBERS:

Receive automatic discounts from OPEN Savings[®] partners such as FedEx, Hertz[®], Delta, and more⁵

Get fee-free Additional Cards for employees

Keep business expenses on one dedicated Card

Have the ability to grow their credit line as their business grows

EARN UP TO 3 FREE NIGHTS WITH YOUR FIRST PURCHASE.⁶

STARWOOD
PREFERRED
GUEST



FOUR POINTS
BY HYATT



LE MERIDIEN



WESTIN



Terms & Conditions

¹ To be eligible to receive 10,000 bonus Starpoints, you must make your first purchase with the Starwood Preferred Guest® Credit Card within one year of Card approval. Bonus points will appear on your Starwood Preferred Guest statement 8-12 weeks after your first purchase. Bonus Starpoints are for first-time Starwood Preferred Guest Credit Cardmembers only. Bonus Starpoints can only be received once per Cardmember, regardless of the number of Starwood Preferred Guest Credit Card accounts the Cardmember may have or had.

² Free Night Awards apply to standard rooms only as defined by each participating property; contact the property before booking to check availability.

³ Award flights include airfare only. Fees, taxes, and terms and conditions vary by airline. For a list of participating airlines, transfer ratios and full program details, go to www.spg.com.

⁴ You will receive one additional Starpoint for each U.S. dollar of Eligible Spending charged on your Card account at participating Starwood properties, and at standalone retail establishments and online stores that, in each case, are wholly owned by Starwood Hotels & Resorts Worldwide, Inc.

⁵ OPEN Savings®: Payment must be made with an American Express® Business Card at the time of purchase. Savings will be credited to your American Express Business Card billing statement. All savings referenced are in addition to any offers made by participating companies. Participation and offers are subject to change without notice. Terms and conditions apply. For more information, please visit opensavings.com.

⁶ Three nights are based on two weekend nights and one mid-week night in a standard room at a Category 2 property or three nights in a standard room at a Category 1 property. Starpoints required for a free night range from 2,000 Starpoints for a weekend night in a standard room at a Category 1 property to 35,000 Starpoints for any night in a standard room at a Category 7 property. Category 7 properties that are all suites or villas require a higher Starpoint redemption. Other examples of how you can redeem 10,000 Starpoints for free nights in a standard room include: 2 weekend nights and 2 weekday nights at a Category 1 property; two weekend nights at a Category 1 property and two weekend nights at a Category 2 property; one night at a Category 3 property and one night at a Category 1 property; or one night at a Category 4 property. For complete information on reward stays, visit www.spg.com.

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Exhibit F



HOME PERSONAL CARDS TRAVEL SMALL BUSINESS CORPORATIONS MERCHANTS

PERSONAL CARDS

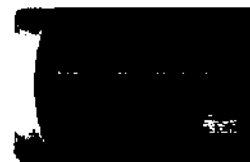
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Benefits of Starwood Preferred Guest® Credit Card from American Express

Highlights

- Earn 10,000 Starpoints® with your first purchase - enough for up to 3 free nights at a Category 1 or 2 hotel
- Earn one Starpoint for every dollar of eligible spending
- Earn double Starpoints on Starwood stays and purchases made at select Starwood retail outlets
- Use Starpoints for free hotel stays, upgrades, and even flights
- Fee-free your first year and only \$45 thereafter



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View the [Card Terms & Conditions](#)

Click on the links below for more detail on the benefits found within this page.

• [Fundamentals](#)

• [Shopping](#)

• [Traveling](#)

Fundamentals of the Card

Earn travel rewards faster than ever before and use them anyway you want.

The Starwood Preferred Guest Credit Card lets you earn free nights at over 825 participating hotels and resorts in 95 countries, including Four Points® by Sheraton, Sheraton®, W® Hotels & Resorts, Le Meridien®, The Luxury Collection®, Westin® and St. Regis®.

- No blackout dates and free nights start as low as 2,000 Starpoints.
- Transfer Starpoints to over 30 major airlines, almost always on a 1:1 basis, and enjoy a 5,000 Starpoint bonus when you transfer 20,000 Starpoints to miles (enough to get you to the 25,000 miles you need for a free domestic ticket in most programs).^{1 2 3 4}

How to Earn Starpoints

- Earn 10,000 Starpoints with your first purchase - enough for up to three free nights at a Category 1 or 2 hotel.
- Earn one Starpoint for every dollar of eligible spending.
- Earn double Starpoints® on stays and purchases made at select Starwood retail outlets - that's in addition to the Starpoints you earn as a Starwood Preferred Guest® member.^{5 6 7 8}

Benefits of the Card

The first year of Cardmembership is fee free, with an annual fee of just \$45 per year thereafter. There is a six-month 2.90% introductory APR on purchases, then Prime plus 9.99% and a grace period up to 20 days. Additional cards are fee-free, so you can share virtually all the benefits and services with family members and watch those Starpoints add up even faster!

Transfer Balances Fee-Free

Transfer balances from your higher-rate MasterCard[®], Discover[®], and Visa[®] cards to your American Express[®] Card account with no transaction fee! Then enjoy the low APR: 2.9% for first six months of Cardmembership, on Balance Transfer requests submitted with this application and/or within the first 30 days of Cardmembership.

Dedicated Customer Service

American Express is here to help you around the clock, with the kind of Customer Service that keeps Cardmembers loyal for a lifetime. For immediate service, call the phone number on the back of your Card.

Your Year End Summary: Available Online

Your Online Year End Summary of Charges gives you access to important information 24 hours a day, seven days a week. Flexible features make organizing your expenses a snap - download the Summary and print it out; sort by date, merchant name, or charge amount; review charges made within a category, such as Travel and Restaurant. Your Year End Summary is an indispensable tool for preparing taxes and budgeting. You may also receive a paper Year End Summary in the mail by calling the number on the back of your Card. Charges processed and posted to your account after December 31, 2007 will appear on next year's summary.

Access Your Account Online

You can view up-to-date billing information online, including transactions, charges, and payments.

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Shopping with the Card

Extended Warranty

Mirrors manufacturers' warranties for covered products purchased entirely with your Card account, for up to one additional year.⁹

Fraud Protection Guarantee

Use the American Express Card online or off, and you won't be held responsible for any unauthorized charges. Period. No fine print, no deductible-just pure protection, so you can shop with confidence.

Purchase Protection

Shop with confidence and Purchase Protection, which protects eligible purchases made with the Card against accidental damage and theft for up to 90 days from the date of purchase.¹⁰

Return Protection

If you try to return a designated item within 90 days from the date of purchase and the merchant won't take it back, American Express will refund the full purchase price, up to \$300 per item, excluding shipping and handling and up to a maximum of \$1,000 annually per Card Account.¹¹

American Express Selects

Offers, savings, entertainment, and special events. American Express Selects puts together great brands, Online ExtrasSM, and much more - all in one great place.

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Traveling with the Card

Emergency Card replacement

Enjoy the security and convenience of access to Emergency Card Replacement services by calling 1-800-964-8542.¹²

Travel Accident Insurance

Travel Accident Insurance provides up to \$100,000 in accidental death and dismemberment insurance while traveling on a Common Carrier Conveyance (plane, train, ship, helicopter, or bus) when the entire fare has been charged to the Card.¹³

Car Rental Loss and Damage Insurance

Relax and enjoy the ride when you use your eligible Card to reserve and pay for an auto rental! The Car Rental Loss and Damage Insurance Plan provides coverage for theft of or damage to most rental vehicles. Simply decline the collision damage waiver (CDW) or similar option offered by the Commercial Car Rental Company. This coverage is excess to your other sources of insurance. Coverage applies for the first 30 days of an auto rental if rented from a Car Rental Company. Just call 1-800-338-1670 for more information and eligibility requirements.¹⁴

Global Assist[®] Hotline

Whenever you travel more than 100 miles from home, you have security and peace of mind 24/7 with medical, legal, financial or other emergency assistance, including medical and legal referrals, visa/passport help, cash access, lost luggage and more.¹⁵

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¹ Free Night Awards apply to standard rooms only as defined by each participating hotel and resort; contact the hotel or resort before booking to check availability.

² Starpoints required for a free night range from 2,000 Starpoints for a weekend night in a standard room at a Category 1 hotel to 35,000 Starpoints for any night in a standard room at many Category 7 hotels. For complete information on reward stays, visit www.spg.com.

³ For a list of participating airlines, transfer ratios and full program details, go to www.spg.com. Participating airlines and transfer ratio are subject to change. Check with your frequent flyer program for details on redemption of airline miles.

⁴ A domestic ticket includes airfare only. Fees, taxes, and terms and conditions vary by airline. Check with your frequent flyer program for details.

⁵ To be eligible to receive 10,000 bonus Starpoints, you must make your first purchase with the Starwood Preferred Guest[®] Credit Card within one year of Card approval. Bonus points will appear on your Starwood Preferred Guest statement 8-12 weeks after your first purchase. Bonus Starpoints are for first-time Starwood Preferred Guest Credit Cardmembers only. You may have more than one Starwood Preferred Guest Credit Card account; however, if you have or had any such account you are not eligible to receive bonus Starpoints you may be offered for any other such account.

⁶ Three nights are based on two weekend nights and one mid-week night in a standard room at a Category 2 hotel or three nights in a standard room at a Category 1 hotel. Starpoints required for a free night range from 2,000 Starpoints for a weekend night in a standard room at a Category 1 hotel to 35,000 Starpoints for any night in a standard room at many Category 7 hotels. Other examples of how you can redeem 10,000 Starpoints for free nights in a standard room include: 2 weekend nights and 2 weekday nights at a Category 1 hotel; two weekend nights at a Category 1 hotel and two weekend nights at a Category 2 hotel; one night at a Category 3 hotel and one night at a Category 1 hotel; or one night at a Category 4 hotel. For complete information on reward stays, visit www.spg.com.

⁷ "Eligible Spending" includes purchases of goods or services, which purchases have not been returned or otherwise rescinded, and are not subject to a credit; it does NOT include fees, Finance Charges, Cash Advances (including the use of checks, line activators, automated teller machines or other means of accessing your account), Balance Transfers, or adjustments to your account. We reserve the right not to award any Starpoints for transactions we determine are not made with the good faith intention of consuming the item charged.

⁸ You will receive one additional Starpoint for each U.S. dollar of Eligible Spending charged on your Card account at Starwood-branded hotels and resorts then participating in the Starwood Preferred Guest loyalty program, and at standalone retail establishments and online stores that, in each case, are wholly owned by Starwood Hotels & Resorts Worldwide, Inc. Starwood associates do not receive any additional Starpoints as a Starwood Preferred Guest member for hotel stays and spend.

⁹ Extended Warranty is underwritten by AMEX Assurance Company, Administrative Office, Green Bay, WI. Coverage is determined by the terms, conditions, and exclusions of Policy AX0953 or Policy EW-IND and is subject to change with notice. This document does not supplement or replace the Policy.

¹⁰ Purchase Protection is underwritten by AMEX Assurance Company, Administrative Office, Green Bay, WI. Coverage is determined by the terms, conditions, and exclusions of Policy AX0951 or Policy PP-IND and is subject to change with notice. This document does not supplement or replace the Policy.

¹¹ Coverage is limited to \$300 per item, excluding shipping and handling, and up to a maximum of \$1,000 annually per Card Account and is subject to additional Terms, Conditions and Exclusions.

¹² Not all services available at all locations and all are subject to local laws and cash availability.

¹³ Travel Accident Insurance is underwritten by AMEX Assurance Company, Administrative Office, Green Bay, WI. Coverage is determined by the terms, conditions, and exclusions of Policy AX0948 and is subject to change with notice. This document does not supplement or replace the Policy.

¹⁴ Car Rental Loss and Damage Insurance is underwritten by AMEX Assurance Company, Administrative Office, Green Bay, WI. Coverage is determined by the terms, conditions, and exclusions of Policy AX0925 and is subject to change with notice. This document does not supplement or replace the Policy.

¹⁵ While the many Global Assist Hotline coordination and assistance services are free benefits from American Express, Cardmembers are responsible for the costs charged by third-party service providers.

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